UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,139	09/30/2003	Adrian P. Stephens	884.B29US1	6402

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER
MOORE, IAN N

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
02/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/676,139	STEPHENS ET AL.
	Examiner	**Art Unit**	
	Ian N. Moore	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>24 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: *See Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a)).
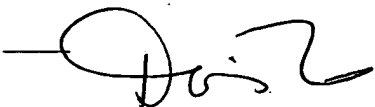
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: *16,35 and 51*.

    Claim(s) rejected: *1,2,6-11,15,17-22,26,27,30,34,36,37,40,41,45,46 and 50*.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Continuation of 3. NOTE:
Claim 1 is amended in lines 1-2 to include "performing within a single wireless communication device". Claim 11 is also amended in lines 1-2. Theses additions made to claims 1,2,4,6-11,13,15-20 raise new issues.

The objection to claim 21 is withdrawn since the claim is amended accordingly.

Continuation of 11. does NOT place the application in condition for allowance because:

Regardins claims 1, 11, 21, and 46, applicant argues that "Ho does not show...the preamble in a second PDU does not follow an IFS..FIG. 6 does not show any preambles at all...Figs. 2 and 4a, b, c of Ho are not relevant to applicatnt claims..." in pages 13-14.

In response to applicant's argument, the examiner respectfully disagrees with the argument above.
Ho discloses transmitting (see FIG. 1,3,6, first wireless station 10/110 transmitting; see page 1, paragraph 7-10; see page 3, paragraph 36) a first protocol data unit (see FIG. 6, first MAC protocol data unit (MSDU) frame; see page 3, paragraph 38-41) over an air interface (see FIG. 1,3,6, over a wireless medium 112; see page 1, paragraph 7-10; see page 3, paragraph 36), wherein the first protocol data unit includes
a first preamble (see FIG. 2-4, a preamble 24 of first MSDU) to enable a receiver to synchronize (see FIG. 1-2, 5, preamble time/synchronize the receiving station 12/102; see page 1, paragraph 8-10; page 3, paragraph 38; page 5, paragraph 53);
a first header (see FIG. 2-4, a header 26 of first MSDU), following the first preamble (see FIG. 2-4, a header 26 follows/next to the preamble 24; see page 1, paragraph 8-10; page 3, paragraph 38; page 5, paragraph 53); and
a first service data unit (see FIG. 2-4, data 28 of first MSDU), following the first header (see FIG. 2-4, a data 28 follows/next to the header 26; see page 1, paragraph 8-10; see page 3, paragraph 38; page 5, paragraph 53); and
transmitting (see FIG. 1,3,6, first wireless station 10/110 transmitting; see page 1, paragraph 7-10; see page 3, paragraph 36) a second protocol data unit (see FIG. 6, second MSDU frame; see page 3, paragraph 38-41) over the air interface (see FIG. 1,3,6, over a wireless medium 112; see page 1, paragraph 7-10; see page 3, paragraph 36) without an interframe space between the first protocol data unit and the second protocol data unit (see FIG. 6, multiple (e.g. first and second) MSDUs are aggregated within a single aggregation frame without IFS 35 (see FIG. 2,4); see page 1, paragraph 9-10; page 3, paragraph 38-42);
the second protocol data unit includes (see FIG. 6, second MSDU):
a second preamble (see FIG. 2,4, preamble 24 of second MSDU, note that FIG. 2-4 show a typical MSDU format and thus it applies to each and every MSDU in the aggregated frame including a second MSDU; see page 1, paragraph 8-10; see page 3, paragraph 38; page 5, paragraph 53),
a second header (see FIG. 2-4, a header 26 of second MSDU), following the second preamble (see FIG. 2-4, a second header 26 follows/next to the second preamble 24; note that FIG. 2-4 show a typical MSDU format and thus it applies to each and every MSDU in the aggregated frame including a second MSDU; see page 1, paragraph 8-10; page 3, paragraph 38; page 5, paragraph 53); and
a second service data unit (see FIG. 2-4, data 28 of second MSDU), following the second header following the first header (see FIG. 2-4, a data 28 follows/next to the second header 26; note that FIG. 2-4 show a typical MSDU format and thus it applies to each and every MSDU in the aggregated frame including a second MSDU; see page 1, paragraph 8-10; see page 3, paragraph 38; page 5, paragraph 53);
wherein the second protocol data unit includes (see FIG. 6, second MSDU):
a second header (see FIG. 2-4, a header 26 of second MSDU), following the second preamble (see FIG. 2-4, a second header 26 follows/next to the second preamble 24; note that FIG. 2-4 show a typical MSDU format and thus it applies to each and every MSDU in the aggregated frame including a second MSDU; see page 1, paragraph 8-10; page 3, paragraph 38; page 5, paragraph 53); and
a second service data unit (see FIG. 2-4, data 28 of second MSDU), following the second header following the first header (see FIG. 2-4, a data 28 follows/next to the second header 26; note that FIG. 2-4 show a typical MSDU format and thus it applies to each and every MSDU in the aggregated frame including a second MSDU; see page 1, paragraph 8-10; see page 3, paragraph 38; page 5, paragraph 53). (Emphasis added)
FIG. 6 shows one example of MAC protocol data unit (MSDU) frame of MAC protocol data units (MSDUs). FIG. 6 only show one example MSDU and Ho's disclosures clearly discloses that there are multiple MSDUs. In particular, per page 3, paragraph 38-41, Ho discloses that there are multiple MSDUs are transmitted. Clearly, Ho's second MSDU is transmitted without any interface space between first and second MSDUs since FIG. 6 and corresponding disclosures shown or recites the claimed limitation.
FIG. 2,4a-c, show a detailed format of one example MSDU. Since examiner is not asserting ACK frame of FIG. 2,4a-b as a second protocol data unit, the applicant argument of FIG. 2, 4a-c having a first protocol data unit and a second protocol data unit is irrelevant. Moreover, in view of FIG. 2, 4a-c, ACK frame is not a data frame, and ACK frame cannot be a data frame since data frame is already being presented in FIG. 2, 4a-c. Examiner is asserting the subsequent MSDU of FIG. 6 as a second protocol data unit, not the subsequent ACK frame within MSDU of FIG. 2, 4a-c.

INM
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